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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/914,523   | 08/29/2001  | Yair Oren            | 20568-68756         | 7992             |
| 46363  | 7590        | 07/12/2005           | EXAMINER            |                  |
| MOSER, PATTERSON & SHERIDAN, LLP/<br>LUCENT TECHNOLOGIES, INC<br>595 SHREWSBURY AVENUE<br>SHREWSBURY, NJ 07702 |             |                      | TRAN, DZUNG D       |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2638                |                  |

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                               |                             |  |
|------------------------------|-------------------------------|-----------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>09/914,523 | Applicant(s)<br>OREN ET AL. |  |
|                              | Examiner<br>Dzung D. Tran     | Art Unit<br>2633            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 9-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant's election with traverse of claims 1-8 which is in Species 1, Figures 1-5 in the reply filed on 04/11/2005 is acknowledged. However, the traversal does not base on any ground(s). Therefore, the requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutter et al. U.S. Patent no. 5,760,934.

Regarding claim 1, Sutter discloses in figure 2, a closed loop optical fiber for carrying information modulated on at least two optical carriers (e.g., information is modulated with wavelength  $\lambda_1$  and wavelength  $\lambda_4$ , see col. 6, lines 24-46), a first one of the carriers having a first wavelength  $\lambda_4$  and a second one of the carriers having a second wavelength  $\lambda_1$ , at least two nodes (e.g., N1, N2) at a first one of which first information modulated on the first carrier  $\lambda_4$  and second information modulated on the second carrier  $\lambda_1$  is to be recovered and transmitted, the first node N1 comprising a first demultiplexer X4N for demultiplexing the first carrier  $\lambda_4$  from the fiber, a second

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demultiplexer X1S for demultiplexing the second carrier  $\lambda_1$  from the fiber, a first multiplexer I1S for multiplexing the first carrier  $\lambda_4$  on the fiber, a second multiplexer I1N for multiplexing the second carrier  $\lambda_1$  on the fiber, and apparatus ADM (e.g., ME1) for receiving and transmitting first and second information ( $\lambda_1$ ,  $\lambda_4$ ) the apparatus ME1 for receiving and transmitting first and second information consisting essentially of a first receiver RN for demodulating first information and a first transmitter EN for modulating first information on the first carrier  $\lambda_4$  before the first carrier  $\lambda_4$  is placed on the fiber by the first multiplexer I1S, a second receiver RS for demodulating second information and a second transmitter EN for modulating second information on the second carrier  $\lambda_1$  before the second carrier is placed on the fiber by the second multiplexer I1N.

Regarding claims 7 and 8, Sutter further discloses in figure 2 a third optical carrier having a third wavelength  $\lambda_2$ , the fiber coupling the third optical carrier through at least one of the first and second demultiplexers or both of the first and second demultiplexers (X4N, X1S) and through at least one of the first and second multiplexers or both of the first and second multiplexers (I1S, I1N) so that the third optical carrier passes through the first node unaffected.

4. Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Cline et al. U.S. Patent no. 6,704,877. Dynamically changing the performance of devices in a computer platform

b. Shiragaki et al. U.S. Patent no. 6,657,952. Ring network for sharing protection resource by working communication paths

c. Kusano U.S. Patent no. 5,982,743. Performance monitoring system, transmission device and Performance monitoring method of transmission line

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dzung Tran  
07/07/2005